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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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BLACK LOVE RESISTS IN THE RUST, by
and through its co-directors Natasha
Soto and Shaketa Redden and on
behalf of its members agent Just
Resisting; Dorethea Franklin; Taniqua
Simmons; De'Jon Hall; and Jane Doe,
individually and on behalf of a class
Of others similarly situated,
Plaintiffs

vs.

CITY OF BUFFALO, NY; BYRON B. BROWN,
Mayor of the City of Buffalo, in his
individual and official capacities;
BYRON C. LOCKWOOD, Commissioner of the
Buffalo Police Department, in his
individual capacity; DANIEL DERENDA,
former Commissioner of the Buffalo
Police Department, in his individual
capacity; AARON YOUNG, officer of the
Buffalo Police Department, in his
individual capacity; KEVIN BRINKWORTH,
PHILIP SERAFINI, officer of the Buffalo
Police Department, in his individual
capacity; UNKNOWN SUPERVISORY PERSONNEL
1-10, officers of the Buffalo Police
Department, in their individual capacities;
and UNKNOWN OFFICERS 1-20, officers of the
Buffalo Police Department, in their
individual capacities,
Defendants.

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18-CV-719 (CCR)

Buffalo, New York
October 9, 2018
2:49 p.m.

TRANSCRIPT OF VIDEO CONFERENCE
BEFORE THE HONORABLE CHRISTINA CLAIR REISS
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

CENTER FOR CONSTITUTIONAL RIGHTS

BY: CLADIA WILNER, ESQ.

DARIUS CHARNEY, ESQ.

ANJANA MALHOTRA, ESQ.

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Appearing on behalf of the Plaintiffs

CITY OF BUFFALO DEPARTMENT OF LAW

BY: ROBERT M. QUINN, ESQ.

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Appearing on behalf of the Defendants

AUDIO RECORDER: Jane Kellogg

TRANSCRIBER: Christi A. Macri, FAPR-CRR
Kenneth B. Keating Federal Building
100 State Street, Room 2120
Rochester, New York 14614

(Proceedings recorded by electronic sound recording,
transcript produced by computer).

P R O C E E D I N G S

* * *

THE CLERK: All rise. Court is now in session. The Honorable Christina Reiss presiding. You may be seated.

07:46:19AM Your Honor, we're here in the matter of Black Love Resists in the Rust, et al. vs. The City of Buffalo, et al., Docket No. 18-CV-719.

Counsel, please state your name and the party you represent for the record.

07:47:05AM **MS. WILNER:** Good afternoon, Your Honor. Claudia Wilner from the National Center for Law and Economic Justice for the plaintiffs.

MR. CHARNEY: Good afternoon, Your Honor, Darius Charney from the Center for Constitutional Rights also for the plaintiffs.

07:47:35AM **MS. MALHOTRA:** Good afternoon, Your Honor. Anjana Malhotra, cooperating counsel with the Center For Constitutional Rights as counsel for the plaintiffs.

MR. QUINN: And Robert Quinn on behalf of the defendants. Good afternoon, Your Honor.

07:48:40AM **THE COURT:** Good afternoon. Today I want to talk about whether or not your joint proposed discovery plan is realistic and also whether or not we could shorten any dates or whether this is something where you've exchanged information.

07:49:20AM

1 So in assisting the Western District of New York,
2 we have the -- the judges of Vermont have agreed to do things
3 your way and follow your local rules, but I've noticed that
4 some of the discovery schedules are abnormally long for no
07:49:42AM 5 particular reason.

6 So, for example, in this case your dispositive
7 motions would be due today next year. And in reading the
8 complaint it looked to me like the data was historical and had
9 been reasonably preserved. But it also looked to me like
07:50:14AM 10 there would be a fairly significant factual discovery phase
11 prior to class determination.

12 And I didn't see anything in the discovery schedule
13 that factored in determining whether or not this proceeds as a
14 class action, which would change things considerably.

07:50:50AM 15 So I'm wondering if it is sufficiently phased or if
16 you've thought about those and decided upon those kind of
17 bare-bones approach, and if I'm missing something.

18 I'm also interested in -- we have an ADR process
19 that is different from your process and it looks to me like
07:51:16AM 20 that is not anywhere in the discovery schedule. It may be
21 that this is a case that does not fall within it. But we do
22 what's called "early neutral evaluation," so we do it sooner
23 rather than later in the case.

24 I looked at the complaint and I saw the due process
07:52:05AM 25 claim, it was not clear to me whether we were talking about

1 substantive or procedural due process. So I'm hoping you can
2 clarify that for me.

3 And I just want to point out that in the
4 defendants' answer it's Black Love "Resits" in the Rust as
07:52:58AM 5 opposed to "Resists" in the Rust. So you might want to check
6 your caption so you don't duplicate that for further filings.

7 So let's start with the plaintiffs, and it would be
8 helpful for me if you announced who you are each time you
9 speak just so I can get your names down. I do have a good
07:53:53AM 10 idea who is litigating in this case.

11 **MS. WILNER:** Thank you, Your Honor. This is Claudia
12 Wilner for the plaintiffs.

13 And I -- we -- both sides have discussed the
14 schedule. We do think there's going to be a fair amount of
07:54:15AM 15 discovery involved in the case. And specifically in terms of
16 deadlines for class action, we would need to do class
17 discovery before we would be in a position to file the motion.

18 I also think there's a fair amount of -- you had
19 mentioned that there was a fair amount of historical data in
07:54:47AM 20 the complaint, and that is true insofar as we have some data
21 about locations of checkpoints.

22 But I wanted to clarify for the Court that our case
23 not only involves the checkpoints, but discriminatory
24 ticketing practices that occur outside of checkpoints and we
07:55:09AM 25 are going to be seeking from the City data that concerns

1 ticketing practices generally, not just at checkpoints, which
2 is not an area of data that we've had an opportunity to
3 explore yet.

4 So we do expect there to be quite a bit more
07:55:27AM 5 statistical data and information that we'll be seeking from
6 the City than is currently present in the complaint. I don't
7 know if that helps.

8 **THE COURT:** It does a little bit. It's your
9 perception that the defendants agree that this should proceed
07:55:50AM 10 as a class action? Because I don't see that built into your
11 discovery schedule.

12 So if it is going to proceed as a class action, you
13 obviously have broader discovery rights than you do if you're
14 dealing with individual plaintiffs.

07:56:09AM 15 **MS. WILNER:** Mm-hmm.

16 **THE COURT:** And I just don't see where that
17 threshold determination would be made in this discovery
18 schedule. And maybe if you're comfortable leaving it loose,
19 that might be fine with me, but I bet we will get to a
07:56:25AM 20 decision point pretty quickly when you ask for something and
21 it's outside the normal scope of discovery, but might be
22 within the scope of discovery for a class action.

23 **MS. WILNER:** Mm-hmm. Well, we absolutely do intend
24 to proceed on a class action basis and we expect to begin
07:56:53AM 25 class discovery, you know, imminently when the conference is

1 over. Some of the earliest discovery that we plan to do is
2 about ascertaining the size of the class and who our class
3 members would be.

4 **THE COURT:** Okay. That didn't really answer my
07:57:19AM 5 question about are you comfortable leaving it this loose and
6 bare-bones?

7 **MS. WILNER:** I think for now, Your Honor, we are.

8 **THE COURT:** Okay. Anybody else from the plaintiffs'
9 side that wants to speak?

07:57:38AM 10 **MS. WILNER:** Oh, yes. Well, you've had a -- there
11 are a couple of other questions that you had raised. One had
12 to do with the ADR process.

13 So we have been expecting and we've talked to
14 defense counsel about this to follow the ADR process and the
07:57:57AM 15 rules that are present in the Western District. So we
16 expect -- we assume that we would be following the timing and
17 the schedule that's set forth in the local ADR plan. So we
18 were planning to proceed with that process.

19 I think we just didn't understand that you would
07:58:19AM 20 want to see those dates included in the discovery plan.

21 **THE COURT:** Let me ask you about that because having
22 sat on a number of these cases, I am seeing discovery plans.
23 Is it required by the local rules?

24 **MS. WILNER:** My understanding is that there is a
07:58:57AM 25 local ADR plan that is required for the local rules unless

1 there are certain kinds of cases that can be opted out.

2 I don't believe our case is the type that normally
3 is opted out. And we have discussed mediation; I think both
4 sides are -- I don't want to speak for opposing counsel, but
07:59:31AM 5 my understanding is both sides are open to mediation.

6 So we discussed -- yeah, we did. According to the
7 local schedule, I think we discussed conferring and selecting
8 a mediator by October 23rd, and having an initial mediation
9 session by December 1st and continuing with mediation, you
08:00:11AM 10 know, up until the time of trial or until the parties decide
11 that it doesn't make sense to continue.

12 **THE COURT:** Okay. And then my last question is, is
13 it a procedural due process claim? Is it a substantive due
14 process claim? Have you not made that determination?

08:00:38AM 15 **MS. WILNER:** I think it would qualify as a
16 substantive -- you know, honestly, Your Honor, I am not sure
17 whether it -- it qualifies as substantive or procedural, but
18 it derives from the line of Supreme Court cases, I believe
19 *Marshall vs. Jerrico* and the other cases that have to do with
08:01:05AM 20 the impartiality of the tribunal and the importance of the --
21 essential importance of having fairness in the process both
22 from the tribunal and the prosecutors and the officers -- this
23 would include the police officers who are appearing in the
24 process.

08:02:39AM 25 So I -- I actually haven't seen in the case law

1 whether they call it substantive or procedural, and there's a
2 different standard protesting those kinds of claims.

3 **THE COURT:** Right. And that's -- when I was trying
4 to stretch out what your claims were, that was my stopping
08:03:00AM 5 point because I don't think -- I didn't get the impression it
6 was about the impartiality of the tribunal. I don't know that
7 that shows up in the due processes claims, but I didn't look
8 specifically for that argument.

9 But breezing through it right now, I -- defendants
08:03:34AM 10 will again violate their Fourth Amendment rights by subjecting
11 them to track enforcement solely for pecuniary gain.

12 So, anyway, you'll get to that point where you're
13 clarifying and go from there.

14 **MS. WILNER:** And if I can --

08:04:59AM 15 **THE COURT:** Go ahead.

16 **MS. WILNER:** -- just to clarify, our claim is really
17 directed not so much at the tribunal, but at the improper
18 pecuniary motivations that are in place at the police officer
19 level. So it's about the prosecutor and the policing as
08:05:23AM 20 opposed to the judges.

21 **THE COURT:** Okay. (Indiscernible) it was the
22 judges, but when you said "impartiality of the tribunal," I
23 guess that's what I was looking for. Okay.

24 I'm sure we'll get to the point of narrowing what's
08:07:14AM 25 at issue and it's a very comprehensive complaint. So I had a

1 lot of information going into this conference.

2 Let's talk -- let me talk to defense counsel, and
3 are you in agreement that a schedule that's bare-bones is
4 going to work for you, at least in the short-term?

08:07:34AM 5 **MR. QUINN:** In the short-term we would say yes. We
6 actually had not discussed the discovery schedule of the class
7 certification. I believe we were just working off of the --
8 the format of the joint proposed discovery plan and the other
9 plan.

08:07:54AM 10 I've seen it both ways. I do think, you know,
11 plaintiff is going to put on a case that they see fit, but I
12 have seen instances where the class certification and class
13 discovery is completed before and then the rest of the case
14 proceeds.

08:08:17AM 15 I don't know that we've discussed this really. I
16 don't know if plaintiff has a preference one way or the other
17 or the Court for that matter. I don't want to make things
18 difficult, but I would like them to proceed in an orderly
19 manner and just big picture.

08:08:37AM 20 From my discussions with the plaintiff, I expect
21 that there are going to be quite extensive discovery requests,
22 and I believe that the dates in the -- in the proposed plan
23 are relatively ambitious. We certainly will do our best to
24 comply with them, but just, you know, from speaking with them
08:09:00AM 25 it sounds like they want to do a lot of depositions, a lot of

1 paper discovery and the wide-ranging nature of the complaint
2 might -- might cause the deadlines to have to be adjusted as
3 we go forward.

4 Whether or not it makes more sense to have the
08:09:18AM 5 class certification done first, I could see a situation where
6 it would, but I don't really know that and we had not really
7 discussed that.

8 **THE COURT:** Okay. Well, having just finished the
9 Northeast Dairy Farmers class action certification case, I
08:09:42AM 10 think that the preferable practice is if you're asking for
11 class certification and you want to end up at trial on that
12 basis, you should be factoring that into a discovery schedule
13 because you're entitled to certain things in a class action
14 lawsuit that you're not entitled to on behalf of individual
08:10:17AM 15 plaintiffs, and it's going to start shaping the case quite
16 quickly.

17 The first time you file your discovery and
18 defendant says you don't -- you're not entitled to this
19 discovery, we're going to hit that point.

08:10:36AM 20 Also, in my experience the class proceedings take
21 up a fair amount of time and so you have to plan on that kind
22 of hearing if you want to go in that direction.

23 So I -- I don't hear any particular anxiety on
24 either parties' part about having a bare-bones schedule that I
08:11:15AM 25 would see in a personal injury case or any other case in the

1 Western District of New York. And if you are happy enough to
2 proceed on that basis for the time being, that's fine with me.

3 One thing that you should understand is, especially
4 if we're going to have a class action, that judges, you know,
08:11:55AM 5 play a much different role than in a typical case. The judge
6 is a fiduciary on behalf of the absent class action members
7 and really needs to manage the proceedings so that the
8 attorneys' fees are not completely out of bounds, so that the
9 class is not waiting forever for a resolution, all that good
08:12:27AM 10 stuff.

11 So I will take a more aggressive approach to case
12 management. So that will be the head's up. And I anticipate
13 we're going to have status conferences along the way to make
14 sure things are moving forward.

08:13:00AM 15 So for today I'm happy to sign off on your joint
16 discovery plan and I think we'll be back at least by telephone
17 in 60 days to see where you're at and whether or not you have
18 come to a more detailed understanding of how the case is going
19 to flow from here.

08:13:26AM 20 There was a mention of a protective order. Do you
21 have that in draft at this point?

22 **MR. CHARNEY:** Yes, Your Honor, this is Darius
23 Charney again for the plaintiffs.

24 We have -- we did draft an order that we've
08:18:36AM 25 exchanged with defendants and we've had a couple of phone

1 conversations about the order.

2 At this point there are a couple of issues which I
3 think we've basically reached an impasse on. I don't know if
4 Your Honor would like to hear about those today or if you'd
08:18:54AM 5 like us to apprise you of it by -- in writing. What is your
6 preference?

7 **THE COURT:** Well, are you prepared to talk about it
8 today?

9 **MR. CHARNEY:** Yes, I believe we are. So I can --

08:19:14AM 10 **THE COURT:** Let me ask -- go ahead, sorry.

11 **MR. CHARNEY:** Oh, no, you want to ask the defendants
12 or --

13 **THE COURT:** I do want to ask the defendants if
14 they're ready to talk about the protective order as well.

08:19:27AM 15 **MR. QUINN:** Of course, Your Honor, I'm happy to
16 discuss it.

17 **THE COURT:** Okay. So let's go back to the
18 plaintiffs and what's the issue with the protective order?

19 **MR. CHARNEY:** Sure. So the first issue has to do
08:19:42AM 20 with what categories of information we want to designate as
21 confidential. We had proposed four categories which my
22 understanding was the defendants were fine with those four
23 categories.

24 They wanted to add in an additional category that
08:20:11AM 25 we are not okay with, and so that's one of the issues. The

1 category that the defendants would like to designate as
2 confidential would be data related to the location of the
3 checkpoints that are conducted by the Buffalo Police
4 Department.

08:20:37AM 5 We are of the view that that is not appropriate.
6 They cited for us the so-called law enforcement privilege,
7 which we don't think is applicable here, and I can go into
8 why. I can cite case law to that effect as well.

9 And in addition, we think it's -- just as a
08:21:09AM 10 practical matter doesn't make any sense given that these
11 checkpoints are very public events where hundreds of people go
12 through them, they're very -- their locations are very
13 well-known to the people of Buffalo; there's even social media
14 postings about them.

08:21:34AM 15 So to say that they should be kept confidential
16 doesn't really make any sense to us. So that's -- that's the
17 first area of disagreement.

18 **THE COURT:** So let me stay on that issue with you,
19 and having not seen your case law --

08:21:50AM 20 **MR. CHARNEY:** Mm-hmm.

21 **THE COURT:** -- and if this is supposedly a crime
22 fighting mechanism, how is it different from a DUI checkpoint
23 which you would not announce in advance we're going to be out
24 on this road at this particular time doing this, because
08:22:36AM 25 people then just divert their path of travel around it?

1 So why is this different than that?

2 **MR. CHARNEY:** I guess maybe to clarify, the data we
3 would be asking for would be for checkpoints that have already
4 been held. So obviously when they're planning to do a
08:22:53AM 5 checkpoint, I mean, I don't even know if they keep data in
6 advance of when they conduct the checkpoint. But once the
7 checkpoint happens they record that data.

8 And so that's the data that we -- we will be asking
9 for and would like to receive and not have it be restricted in
08:23:16AM 10 terms of its confidentiality. So I don't know if that gets at
11 the question of, you know, well, these have to be a surprise.
12 We would be asking for data on checkpoints that have already
13 taken place so that element of --

14 **THE COURT:** So what's --

08:23:51AM 15 **MR. CHARNEY:** -- surprise is not really an issue in
16 our view.

17 **THE COURT:** Let's hear from defense counsel.

18 **MR. QUINN:** On that specific issue, Your Honor, we
19 have -- there have been previous FOIA requests and we've
08:24:12AM 20 raised this concern prior to and in discussions in the context
21 of this lawsuit.

22 The concerns are officer safety and the adequacy
23 and the effectiveness of checkpoints should they happen in the
24 future. Those are the concerns that we've raised.

08:24:30AM 25 I think it's important to remember what we're

1 talking about here is a stipulation to confidentiality. If
2 plaintiff doesn't want to stipulate to that, you know, I can't
3 force them to.

4 The issue, as I see it with respect to --

08:24:47AM 5 **THE COURT:** So then tell me what officer safety
6 could there be for historical data?

7 **MR. QUINN:** For historical data the possibility
8 arises, Your Honor, that certain locations would, for whatever
9 reason, have been determined to be effective locations based
08:25:10AM 10 on, you know, the reasons that they hold those checkpoints and
11 that they occur at that location in a pattern manner -- or in
12 a frequent manner, something like that, so that using
13 historical data you could try to foresee going forward the
14 manner and locations and times in which the checkpoints would
08:25:35AM 15 be conducted.

16 But if that answers your question, I did want to
17 sort of address the -- as I see it, the issue regarding the
18 stipulation of confidentiality is whether or not it is going
19 to be an exclusive stipulation or if it's just going to
08:25:56AM 20 pertain to the things that are identified in that document.

21 I think it is laudable and we should try to agree
22 on things that would be kept confidential largely as it's
23 currently drafted, that's proposed to be mostly personal
24 information of both plaintiffs and defendants. That seems
08:26:19AM 25 reasonable.

1 What I want to avoid is for that to change --
2 should other issues come up in the future, change in any way
3 the manner in which confidential or privileges or things of
4 that nature are addressed. I want the order to be a
08:26:36AM 5 stipulation of things that we can agree on, not an exclusive
6 here's the only thing that's going to be confidential because
7 as we sit here we don't know -- I don't know what the
8 plaintiff is going to request.

9 We have not received any discovery requests. I
08:26:50AM 10 don't know how far they're going to look as far as data.
11 They've already indicated that it is going to be wide-ranging
12 and it's not just limited to the location of checkpoints.

13 So I don't know. I don't think it's going to be a
14 huge issue, but, you know, these are records that go a long
08:27:08AM 15 ways. So I just don't want to be limited as we move forward
16 in the lawsuit. That's what I see as the issue regarding
17 the -- the confidential order.

18 **THE COURT:** Okay. I don't think that historical
19 data should be confidential as a per se category on the
08:27:56AM 20 thought that maybe they're going to choose the same location
21 at some time in the future. That doesn't seem to me that
22 would warrant true confidential status.

23 I don't think this protective order limits the
24 defendant from coming back to the Court and asking for a
08:28:22AM 25 different protective order. Protective orders, as you know,

1 don't have to be mutual. If you get to a sticking point, you
2 can ask for an *in camera* inspection and have the Court make
3 determinations.

4 So what I don't want is protracted negotiations
08:28:43AM 5 over a protective order where all discovery comes to a
6 standstill and you don't go forward because you don't have
7 this signed.

8 So there's a mechanism in the rules for something
9 that one party finds confidential and the other does not. You
08:29:02AM 10 can submit it on an expedited basis and I'll give you an
11 expedited ruling.

12 What's the next issue with regard to the protective
13 order?

14 **MR. CHARNEY:** So it actually builds off your last
08:29:15AM 15 comment there, which is we had put some general language at
16 the end of the order which basically preserves both sides'
17 right to add additional categories of confidential information
18 as well as for, you know, each side if they oppose such
19 additional designations to oppose those and then the party
08:29:38AM 20 seeking the designation would go to the Court.

21 So in other words, create -- trying to, you know,
22 put down in writing the process which you just articulated.
23 We thought this language was pretty standard in protective
24 orders and stipulations we've seen in other cases. So we're,
08:30:07AM 25 frankly, a little bit confused as to why the defendants

1 wouldn't want such language in this agreement.

2 It would basically provide for a process to Your
3 Honor's point where if a party wants to designate another
4 category and the other side doesn't agree with it they would,
08:30:26AM 5 you know, meet-and-confer. And if they can't agree, then the
6 party that's seeking the designation would go to the judge to
7 seek an order to declare it confidential.

8 So it seems pretty uncontroversial to us, but the
9 City was not willing to agree to that language here.

08:30:53AM 10 **THE COURT:** Let's here from defense counsel.

11 **MR. QUINN:** Your Honor, I think as you stated, are
12 correct. I mean, there are mechanisms in place for when
13 someone thinks something is confidential.

14 This agreement changes those mechanisms and I just
08:31:15AM 15 don't think it should go that far. I think there are things
16 that we can agree on and that should be it. It should not
17 change what I or plaintiff has to do should other issues arise
18 in the future.

19 There are already mechanisms in place for that, and
08:31:34AM 20 I think this agreement does change it. And that's the only
21 sticking point from our perspective. I don't see why it needs
22 to happen.

23 **THE COURT:** Okay. I don't see that it needs to be
24 in there because the Federal Rules of Civil Procedure provide
08:31:48AM 25 mechanisms for going to the Court and asking for a protective

1 order or withholding documents or other information based on
2 privilege, what's required and I'm happy enough to have that
3 be the Court's guiding post.

08:32:12AM 4 It doesn't sound to me like it's a real material
5 change because if you are seeking confidentiality and
6 non-production, you do have an obligation to go to the Court
7 and ask for a protective order. You have an obligation to
8 meet-and-confer.

08:32:30AM 9 But I don't see that you should hold up the
10 protective order based on a clause that is adequately covered
11 by the Federal Rules of Civil Procedure.

12 Any other issues with the protective order?

13 **MR. CHARNEY:** No, I don't think so, Your Honor.

14 **MR. QUINN:** I don't think so either, Your Honor.

08:32:48AM 15 **THE COURT:** Okay. You will be hearing from me in 60
16 days. We'll be talking by telephone preferably, even though
17 that's not my preferred way of communication. I will be just
18 checking in to see if the landscape has shifted in terms of
19 our working discovery schedule.

08:33:21AM 20 I'm happy to go bare-bones and you might tell me
21 that that's working out fine. And if not, I want to be
22 proactive in getting a nailed down discovery schedule that has
23 a more case related approach to a case that looks to me like
24 it will be relatively complicated.

08:33:56AM 25 Anything else that we can address today?

1 **MR. CHARNEY:** I don't believe so.

2 **MS. WILNER:** No, Your Honor, not from the
3 plaintiffs. Thank you.

4 **MR. QUINN:** Not at this time, Your Honor, thank you.

08:34:17AM 5 **THE COURT:** All right. And then the last thing I
6 would say is in my cases I do not have a problem if you hit a
7 stumbling block for you to call me outside of a scheduled
8 conference. So as long as both sides are on the phone, you
9 shouldn't hesitate to place that call. We can sometimes
08:34:38AM 10 address issues much more quickly and less expensively than
11 having people file motions.

12 So if that happens, the invitation stands and I'd
13 be happy to talk to you by telephone. We'll probably record
14 it here or do it with the Western District of New York with a
08:35:24AM 15 court -- court reporter, but if you want to have a chambers
16 conference, let me know as well.

17 All right, I thank you and I look forward to
18 working with you on this interesting case further.

19 **MR. CHARNEY:** Thank you, Judge.

08:35:40AM 20 **MS. WILNER:** Thank you, Your Honor.

21 **MR. QUINN:** Thank you, Your Honor.

22 (WHEREUPON, proceedings adjourned at 3:28 p.m.)

23 * * *

24

25

CERTIFICATE OF TRANSCRIBER

In accordance with 28, U.S.C., 753(b), I certify that this is a true and correct record of proceedings from the official electronic sound recording of the proceedings in the United States District Court for the Western District of New York before the Honorable Christina Clair Reiss on October 9th, 2018.

S/ Christi A. Macri

Christi A. Macri, FAPR-CRR
Official Court Reporter